

**BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

**STATE OF CALIFORNIA**

In the Matter of: ) Case No. 2001-010125ADH  
)  
FRANCISCO ALBA FRIAS and ) OAH No. L-2002030421  
MARIA ALBA, OPERATORS, FRANKY )  
WASTE TIRE SITE, and FRANSISCO )  
ALBA FRIAS, d.b.a. FRANKY TIRE, )  
WASTE TIRE HAULER, a.k.a. )  
FRANKY TIRE, )  
)  
Respondents. )  
\_\_\_\_\_) Facility 36-TI-0826

**DECISION**

After an administrative complaint was filed in the above-captioned matter, it was submitted by the parties to the Office of Administrative Hearings for decision, pursuant to a stipulation for issuance of decision received May 29, 2002. That stipulation, executed by the parties hereto, is made Exhibit "A" to the record and the matter is deemed submitted for decision May 29, 2002. Based on the parties' stipulation, which includes stipulated factual findings, the undersigned issues the following decision.

**FACTUAL FINDINGS**

1. On or about January 20, 2002, the California Integrated Waste Management Board (hereafter either "the Board" or "CIWMB") issued an administrative complaint against Respondents. Respondents are Francisco Alba Frias and Maria Alba, Operators of Franky Tire Waste Tire Site, Facility No. 33-TI-1275. Mr. Frias also does business as Franky Tire Waste Tire Hauler, also known as Franky Tire.

2. The Facility was located in San Jacinto, California, at a location identified as Assessor's Parcel Number 435-260-007.<sup>1</sup>

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<sup>1</sup> The stipulation identifies the site as being located in San Jacinto, California, and the undersigned takes official notice that such is located in the County of Riverside. It should be noted that the administrative complaint had identified the facility by the parcel number set forth herein, and by the address of 280 Bissell Pl., San Jacinto, California.

3. The parties agreed to resolve the matter by a settlement, and they executed a written stipulation, the Respondents on May 24, 2002. That stipulation establishes the facts upon which the factual findings herein are based, and it also establishes the rights and obligations of the parties, and the basis for the orders herein. Respondents have stipulated to take certain actions on their own part, and Respondents have further stipulated that the Board may issue this Decision based on their stipulation.

4. Respondents Frias and Alba stored more than 2000 waste tires at the facility for a period of several years without first obtaining a permit to do so from the Board. This constituted a violation of Public Resources Code section 42850 et. seq. And Title 14, California Code of Regulations (hereafter "CCR") section 17350, et. seq. Those laws relate to the storage of waste tires.

4. Respondents Frias and Alba admit the violations alleged in the administrative complaint, which includes allegations that they failed to comply with a clean up and abatement order issued in January 2001. The complaint further alleged, and by their stipulation Respondents admit, that they removed tires from their facility to an unlicensed facility in Hemet, California, through the use of an unlicensed waste tire hauler, all in violation of state law. Further, it was alleged in the administrative complaint and Respondents admit that they failed to obtain a minor waste tire facility permit before transporting the tires to a location in Hemet, California, and that they established a minor waste tire storage facility there in violation of the law. By their stipulation Respondents admitted hauling tires illegally on at least ten occasions.

5. Respondents by their stipulation admit that they committed misdemeanors related to the storage of tires at the San Jacinto Facility, with Respondent Frias admitting to nine separate misdemeanors, and Respondent Alba admitting to two separate misdemeanors.

6. The site has been cleaned up of all waste tires.

7. The parties agreed that this final decision could issue, requiring the Respondents to pay fines and penalties, and to perform other obligations. By the stipulation the Board agreed to waive certain claims, and to allow certain activities by Respondents in the future. Specifically, pursuant to the stipulation the Respondent Frias agreed to pay civil penalties to the Board in the sum of \$10,000 within five years as set forth in the stipulation, and to comply with other terms; Respondent Alba agreed to pay \$5,000.00 during the same time period.

### **LEGAL CONCLUSIONS**

1. The Board has authority to issue the above-captioned administrative complaint for penalties, and to penalize Respondents for violations of the Public Resources Code, pursuant to sections 42850 through 42855 of the PRC.

2. Respondents have violated PRC sections 42850 et. seq., based on Factual Findings 1 through 5.

3. Respondents have established some rehabilitation and mitigation, justifying the settlement and stipulated decision, based on Factual Findings 3 through 7.

4. The terms and condition of the stipulation should become the decision of this tribunal and the Board pursuant to Government Code section 11415.60 and PRC section 42851(b), based on Factual Findings 1, 3, 5, and 7.

5. To facilitate enforcement, some language of the stipulation may be modified herein, and especially in the order following, so that words of agreement may become words of command. In the event there is any question of interpretation of the parties' obligations and rights under this Decision, the stipulation may be referenced for purposes of interpretation, as well as the administrative complaint, as the parties agree in the stipulation that the violations asserted in the administrative complaint are deemed admitted. This conclusion is based on Factual Finding 3, Civil Code section 1642, and the terms of the parties' stipulation.

### **ORDER**

1. Pursuant to the parties' stipulation and the foregoing Findings and Conclusions, Respondent Francisco Alba Frias shall pay to the Board the sum of \$10,000.00 as fines and civil penalties. Payment shall be completed within five (5) years of the effective date of this order.

2. Pursuant to the parties' stipulation and the foregoing Findings and Conclusions, Respondent Maria Alba shall pay to the Board the sum of \$5,000.00 as fines and civil penalties. Payment shall be completed within five (5) years of the effective date of this order.

3. Payments shall be made to the CIWMB at P.O. Box 4025, Sacramento, California, 95812, attention Kim Kotey, or to such other agent or at such other place as the Board or its authorized agent may designate in writing.

4. Respondent Francisco Alba Frias may work for a registered waste tire hauler, provided that he informs any such employer of his history with the Board, including the administrative complaint, the stipulation, and this decision. While Respondent Frias is employed by any registered waste tire hauler he shall provide copies of all manifests to CIWMB inspector Vance Tracy, or such other inspector designated by the Board in writing.

5. Respondents shall abide by all terms of their respective criminal sentences.

6. Respondents shall be allowed to apply for a waste tire hauler registration after two years have expired from the effective date of this decision.

7. So long as Respondents comply with the terms of this Decision the Board shall not pursue any other fines or penalties or other relief against Respondents as a result of the matters alleged in the administrative complaint. This shall not bar the Board from enforcing the stipulation or this decision, or from pursuing claims based on acts or omissions of the Respondents not associated with or arising out of the acts and events alleged in the administrative complaint.

July \_\_, 2002

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Joseph D. Montoya,  
Administrative Law Judge,  
Office of Administrative Hearings